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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/738,650	12/15/2000	Eric Cohen-Solal	US000395	1565
24737	7590	12/13/2005	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			YENKE, BRIAN P	
			ART UNIT	PAPER NUMBER
			2614	

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/738,650

Applicant(s)

COHEN-SOLAL, ERIC

Examiner

BRIAN P. YENKE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Appeal Brief (19 Sep 05).  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-11 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. The examiner previously mailed out a Final Rejection (22 Nov 05), which reopened prosecution after the filing of an Appeal Brief (19 Sep 05). However, the Final Rejection provided did not include the supervisor's signature, and thus this Supplemental Action is being provided which includes the required signature (as stated in MPEP 1207.04, shown below).

#### **1207.04 [R-3] < Reopening of Prosecution After Appeal**

The examiner may, with approval from the supervisory patent examiner, reopen prosecution to enter a new ground of rejection after appellant's brief or reply brief has been filed. The Office action containing a new ground of rejection may be made final if the new ground of rejection was (A) necessitated by amendment, or (B) based on information presented in an information disclosure statement under 37 CFR 1.97(c) where no statement under 37 CFR 1.97(e) was filed. See MPEP § 706.07(a). >Any after final amendment or affidavit or other evidence that was not entered before must be entered and considered on the merits.<

2. In view of the Appeal Brief filed on 19 Sep 05, PROSECUTION IS HEREBY REOPENED.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have

been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

3. Based upon Applicant's Appeal Brief and upon further review/consideration the examiner has withdrawn the previous rejection, however since the applicant's claims were amended (06 Oct 04) from their original presentation, the examiner is now providing a new Final Rejection as stated below, any inconvenience caused to the applicant is regretted. In the event the applicant desires to discuss the merits of the rejection and to advance prosecution the examiner invites the applicant to contact the examiner. The previous 103 rejection was made in error since the examiner read the limitation "the characteristic being at least one of a continuous color portion and a continuous texture portion" as needed the combination (a) and (b), however given the broadest interpretation the claims only recites "one of" being either the continuous color portion (no motion) or continuous texture portion. Since AAPA discloses the claimed motion detection (continuous (no motion present)/discontinuous (motion present) color portion), the claims are rejected as stated below.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3,6-8 and 11 rejected under 35 U.S.C. 102(b) as being anticipated by

Applicant's Admitted Prior Art (AAPA).

In considering claims 1, 7-8 and 11,

*a) the claimed a display...* is met by AAPA (page 1, line 14 to page 3 line 6), where the AAPA states that prior art systems receive two streams and display a PIP on a primary image.

*b-d) the claimed a processor...* is met by AAPA where prior art systems automatically reposition the PIP in response to detected motion between one from of the video image and the next frame (page 2, line 18-21). AAPA does disclose the changing of a PIP display characteristic of an image to include the position of the PIP on the display and the display size of the PIP as disclosed by AAPA (pages 1-3). Since prior art systems reposition the PIP in response to detected motion, the limitation of a continuous color portion being determined is met, since the discontinuity of a color (brightness, contrast) portion is what determines when there is motion or not/scene change.

In considering claim 3,

As stated above, AAPA moves the PIP based upon motion (discontinuous color portion), thus the PIP would be moved in the non-motion (continuous color portion).

In considering claim 6,

The claimed behavior given the broadest interpretation is met by the detection of motion (behavior present or not of the frame, which is indicated by a color/pixel value change).

***Claim Rejections - 35 USC § 103***

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5a. Claims 4-5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA.

In considering claims 4-5,

Prior Art does not explicitly recite the position of the PIP with respect to a person.

However, the examiner takes OFFICIAL NOTICE that the manipulation of an image/display by not obscuring the face/person of an image is conventional in the art, since viewers are typically concerned with the people in the video as opposed to the background objects.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify AAPA which discloses the manipulation of a PIP image based upon motion (continuous or non-continuous color) in order to resize or move the image in order to provide the viewer an optimum display, by recognizing that the movement/resizing should not obscure the person/face of the display since this would obscure the viewing experience for the user.

In considering claim 10,

As stated above with respect to claim 1, AAPA discloses the size or position of the PIP in order to enhance the viewing experience of a PIP display for the user.

Thus it would have been clearly obvious to also provide the user the added benefits of both capabilities of size/position in order to clearly enable the viewer to see a PIP display which does not obscure any relevant areas of the display.

5b. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art in view of Rainville US 2002/0069411.

In considering claim 9,

AAPA does not specifically address the transparency of the PIP.

AAPA does disclose the changing of a PIP display characteristic of an image to include the position of the PIP on the display and the display size of the PIP as disclosed by AAPA (pages 1-3).

Although, the changing of the transparency of the PIP is conventional in the art, the examiner nonetheless incorporates Rainville et al., US 2002/0069411. Rainville discloses a system which renders the PIP image transparent in order to view the background image behind the PIP image.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to AAPA, which changes the position and/or size of the PIP based on the main picture signal, in order to provide the viewer an optimum display of one or more signals, by also rendering the PIP transparent as done by Rainville in to provide the user the ability to see the entire background image when the changing of position and/or size of the PIP does not adequately display the main picture signal.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure—please see previously cited WO-98/57718.

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7. Applicant's amendment (dated 06 Oct 04) necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Yenke whose telephone number is (571)272-7359. The examiner work schedule is Monday-Thursday, 0730-1830 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, John W. Miller, can be reached at (571)272-7353.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

**(571)-273-8300**



Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703)305-HELP.

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(FAX) 703-305-7786

(TDD) 703-305-7785

An automated message system is available 7 days a week, 24 hours a day providing informational responses to frequently asked questions and the ability to order certain documents. Customer service representatives are available to answer questions, send materials or connect customers with other offices of the USPTO from 8:30 a.m. - 8:00p.m. EST/EDT, Monday-Friday excluding federal holidays.

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B.P.Y

30 November 2005

  
**BRIAN P. YENKE**  
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